

TITLE 10. CALIFORNIA DEPARTMENT OF CORPORATIONS

NOTICE IS HEREBY GIVEN

The California Corporations Commissioner ("Commissioner") proposes to amend Title 10, Chapter 3 of the California Code of Regulations under the CALIFORNIA DEFERRED DEPOSIT TRANSACTION LAW by amending section 250.51 and adopting sections 2020 and 2021 relating to the long and short form applications for licensure under this law.

PUBLIC HEARING

No public hearing is scheduled. Any interested person or his or her duly authorized representative may request, in writing, a public hearing pursuant to Section 11346.8, subdivision (a), of the Government Code. The request for hearing must be received by the Department of Corporations' contact person designated below no later than 15 days prior to the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department of Corporations, addressed to Kathy Womack, Office of Law and Legislation, Department of Corporations, 1515 K Street, Suite 200, Sacramento, CA 95814-4052, no later than 5:00 p.m. on May 12, 2003. Written comments may also be sent to Kathy Womack (1) via electronic mail at regulations@corp.ca.gov or (2) via fax (916) 322-3205. If this day is a Saturday, Sunday or state holiday, the comment period will close at 5 p.m. on the next business day.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The California Legislature enacted Senate Bill 898 (Chapter 777, Statutes 2002) to provide for regulation of persons engaged in the business of deferred deposit transactions and to transfer the corresponding responsibilities from the Department of Justice to the Department of Corporations ("Department"). SB 898, known as the California Deferred Deposit Transaction Law ("CDDTL"), became effective on January 1, 2003 and will become operative on March 1, 2004. The California Corporations Commissioner ("Commissioner") has the power and authority to implement provisions of the CDDTL prior to March 1, 2004. (Financial Code Section 23104.)

Section 250.51: California Code of Regulations Section 250.51 contains a chart of permit processing times of the programs regulated by the Department. The proposed amendment would add the permit processing time for the long and short form applications under the CDDTL to the existing chart. (Financial Code Section 23011(c).)

Section 2020: Proposed Section 2020 sets forth the long form application for a license as provided for by the CDDTL. Under the CDDTL, the Department licenses and regulates persons engaged in the business of deferred deposit transactions conducted within this state. The CDDTL provides that no person shall engage in the business of

deferred deposit transactions without obtaining a license from the Commissioner. (Financial Code Section 23005, subdivision (a).) The CDDTL further provides that the application for a deferred deposit transaction license shall be in the form and contain the information that the Commissioner may by rule require. (Financial Code Section 23005, subdivision (b).)

Section 2021: The short form application for an additional license under the CDDTL is proposed to be added as Section 2021. The Commissioner may also establish a short form application and procedure for use by a licensee with one or more licensed locations who is seeking an additional location license. (Financial Code Section 23005, subdivision (c).)

The Department's application forms will be used by applicants seeking to become licensed to engage in the business of deferred deposit transactions. The form will be available to the public either at the Department's offices or on its web site at www.corp.ca.gov. However, this form has not been formally adopted as a regulation pursuant to the Administrative Procedure Act ("APA"). (Government Code Section 11370, et seq.) Nor has a short form application been adopted as a regulation.

Accordingly, in order to comply with the APA, the Department proposes to amend Section 250.51 to Title 10, Chapter 3 of the California Code of Regulations to add the permit processing times for the long and short form applications. Additionally, the Department proposes to add Section 2020 to Title 10, Chapter 3, Subchapter 13, Article 2 of the California Code of Regulations, the text of which will be the "Application For a License Under the California Deferred Deposit Transaction Law." Finally, the Department proposes to add Section 2021 to Title 10, Chapter 3, Subchapter 13, Article 2 of the California Code of Regulations, to enable applicants who qualify to file a short form application for licensure with the Department.

AUTHORITY

Sections 23005, 23015, 23101 and 23104, Financial Code.

REFERENCE

Section 23005, subdivisions (b) and (c), Financial Code.

AVAILABILITY OF MODIFIED TEXT

The text of any modified regulation, unless the modification is only non-substantial or solely grammatical in nature, will be made available to the public at least 15 days prior to the date the Department adopts the regulation. A request for a copy of any modified regulation should be addressed to the contact person designated below. The Commissioner will accept written comments on the modified regulation for 15 days after the date on which it is made available. The Commissioner may thereafter adopt, amend or repeal the foregoing proposal substantially as set forth above without further notice.

AVAILABILITY OF INITIAL STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS/INTERNET ACCESS

The express terms of the proposed action may be obtained upon request from any office of the Department. Request Document PRO 29/02-B. An initial statement of reasons for the proposed action, containing all the information upon which the proposal is based, is available from the contact person designated below. Request Document PRO 29/02-C. These documents are also available at the Department's website www.corp.ca.gov. As required by the APA, the Office of Law and Legislation maintains the rulemaking file. The rulemaking file is available for public inspection at the Department of Corporations, Office of Law and Legislation, 1515 K Street, Suite 200, Sacramento, California 95814-4052.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the contact person named in this notice or may be accessed on the website listed above.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

FISCAL IMPACT

- Cost or savings to any state agency: None.
- Direct or indirect costs or savings in federal funding to the state: None.
- Other nondiscretionary cost or savings imposed on local agencies: None.

DETERMINATIONS

The Commissioner has made an initial determination that the proposed regulatory action:

- Does not impose a mandate on local agencies or school districts, or a mandate which requires reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.
- Does not have an effect on housing costs.
- Does not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- Does not significantly affect: (1) the creation or elimination of jobs within the State of California; (2) the creation of new businesses or the elimination of existing businesses within the State of California; (3) the expansion of businesses currently doing business within the State of California.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The Department of Corporations is not aware of any cost impacts that a representative person or business would necessarily incur in reasonable compliance with the proposed action. The proposed rules merely implement the provisions set forth by Financial Code Section 23005 with an application for persons seeking a license to engage in the business of deferred deposit transactions under the CDDTL.

EFFECT ON SMALL BUSINESS

It has been determined that the adoption of these regulations will not affect small businesses. Deferred deposit transactions are excluded from the definition of small business in Government Code Section 11342.610, subdivision (b)(1). In addition, the proposed rules merely set forth application forms requesting information dictated by existing statutes.

CONTACT PERSON

Inquiries concerning this action, such as requests for copies of the text of the proposed regulations, may be directed to Kathy Womack at (916) 322-3553. The backup contact person is Karen Fong at (916) 322-3553, Department of Corporations, 1515 K Street, Suite 200, Sacramento, California, 95814.

Dated: March 12, 2003
Sacramento, California

DEMETRIOS A. BOUTRIS
California Corporations Commissioner

By _____
TIMOTHY L. Le BAS
Deputy Commissioner and General Counsel
Office of Law and Legislation